

START A BUSINESS (TAB)

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START A BUSINESS

The purpose of this section is to provide information needed on licensing and legal requirements to start a business in San Antonio. The following is meant for informational purposes only and is not meant to be a legal document. Whenever possible, you are encouraged to consult with an Attorney or an Accountant. You are also encouraged to take advantage of the assistance available to start-up businesses and small businesses in San Antonio.

Steps to Start a Business

1. Review tax and employer requirements
2. Decide on form of business, choose name
3. Register business and/or obtain employer ID from IRS
4. Review types of assistance available and make use of any or all types
5. Obtain business permits

Requirements to do Business

Observe Federal Tax Requirements

There are a number of taxes that you are required to pay such as: federal business income tax, and self-employment tax, among others. You can obtain tax-related forms and other information by requesting a Business Tax Kit. To order a Business Tax Kit, call 1-800-829-3676.

SOLE PROPRIETOR REQUIREMENTS

Tax Identification Number (TIN) – You generally use your social security number as your Tax Identification Number, however a sole proprietor who pay wages must have an Employer Identification Number (EIN). Additionally, every Partnership, Corporation and Non-Profit Organization must have an EIN.

Federal Income Tax – Every business, except partnership, must file an annual return. Partnerships file an individual return. The federal income tax is a pay-as-you-go-tax. You must pay the tax as you earn or receive income during the year. An employee usually has income tax withheld from his or her pay. If you do not pay your tax through withholding, you may have to pay estimated tax.

Self-Employment Tax – Self-Employment Tax is the social security and Medicare tax for individuals who work for themselves. Your payments of self-employment tax contribute to your coverage under the social security system.

EMPLOYER REQUIREMENTS

Employment Taxes – If you have employees, you will need to get Publication 15, Circular E, Employers' Tax Guide.

Federal Unemployment Tax – The federal unemployment tax is part of a federal and state program under the Federal Unemployment Tax Act (FUTA) that pays unemployment compensation

to workers who lose their jobs. You report and pay FUTA tax separately from your social security and Medicare taxes and withheld income tax.

Employer Identification Number (EIN) – A sole proprietor who pays wages must have an Employer Identification Number (EIN). Additionally, every partnership, corporation and nonprofit organization must have an EIN. To request your EIN call the IRS at (512) 460-7843.

Hiring Employees – Every Sole Proprietor, Partnership, Corporation, Association, Organization or other entity that employs one or more persons in Texas must file FORM C-1, “EMPLOYERS STATUS REPORT”. For more information call one of the offices listed above and request a copy of the booklet “SPECIALLY FOR TEXAS EMPLOYERS”. This booklet provides valuable information on workplace issues from understanding the agency and the law, to taxes and the appeals process. You can also download a copy of the booklet as well as other information by accessing the Texas Workforce Commission’s website.

Texas New Hire Program – Effective October 1, 1998, in accordance with the Federal Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) of 1996, all Texas employers will be required to report certain information on newly hired employees to a State Directory of New Hires. New hire information provided by employers is compiled in a statewide directory.

If you plan on hiring employees you will be required to withhold federal income tax and social security (FICA) tax from their wages. You will also have to pay Federal Unemployment (FUTA) Tax. Employment taxes are explained in IRS Publications 937 and Publication 15. If self-employed, you will also be required to pay the social security tax, in addition to the federal income tax. Refer to the Tax Guide Publication 334 for more information.

Employee vs. Independent Contractor – Do not make assumptions about whether or not an individual is an independent contractor, regardless of what that person might claim to be. The IRS and Texas Workforce Commission use 20 common law factors to evaluate the relationship between you as an employer and the individual(s) you pay for providing service. Complete a Form SS-8 to the IRS to have IRS make the determination. You can obtain the form by calling the IRS at (800) 929-1040 or visit the website www.irs.treas.gov.

Register Your Business Name

Your business name must be registered before you apply for a certificate of occupancy and before you can open a commercial checking account at a bank. Before you register your business you must decide what form it will take. It can be a sole proprietorship, a partnership or a corporation.

SOLE PROPRIETORSHIP OR PARTNERSHIP

If the business will operate as a sole proprietorship or a partnership, an Assumed Name Certificate or D.B.A. (Doing Business As) for each name the business will use must be on file with each county clerk office in the county in which business will be conducted. If no business premise is maintained, the assumed name certificate must still be filed in the county where the business is conducted.

Filing of an Assumed Name certificate does not impart any real name protection. It is merely a formal process that informs the general public as to who is the registered agent of a business and

how official contact can be made. Most banks will not allow you to open a business checking account without an Assumed Name Certificate.

Filing an Assumed Name Certificate does not reserve the business name for your exclusive use. Requests for name searches are not accepted over the phone. Filing must be renewed every ten (10) years. For additional information, contact the Bexar County Courthouse, Assumed Names Desk @ County Clerk's Office, 100 Dolorosa, (210) 335-2223.

BUSINESS INCORPORATION

All businesses operating as corporations in Texas must file Articles of Incorporation with the Office of the Secretary of State of Texas. If the corporation will transact business under names other than that stated in the Articles of Incorporation, the corporation needs to file an assumed name certificate with the Secretary of State and with the county clerk in which the principal office and registered office of the corporation is located. You can also find out if a corporation is already using the name chosen. Contact the Office of the Secretary of State, Statutory Filing Division, Corporations Section, P.O. Box 13697, Austin, Texas 78711-3697, (512) 463-5555.

OTHER BUSINESS ENTITIES

Other forms of business entities required to file with the Secretary of State include: Limited Partnerships, Limited Liability Partnerships, Limited Liability Companies, Professional Corporations, Professional Associations, and Non-Profit Corporations. The Secretary of State provides a summary of requirements for the creation of these entities but does not provide forms for organization documents except for registration of a limited liability partnership.

CERTIFICATE OF AUTHORITY

Corporations, limited partnerships and limited liability companies organized in other states or countries may transact business in Texas by obtaining a Certificate of Authority through the Office of the Secretary of State. The Corporation section of the Secretary of State can provide you the forms. An out-of-town business may consider the option of creating a Texas corporation, limited partnership, or limited liability company for transaction of business in Texas.

FOREIGN OWNERSHIP

To obtain an Investor's visa, a petition must be filed with the Immigration and Naturalization Service Center having jurisdiction over the area in which the new commercial enterprise will be principally doing business. For a business that will locate in San Antonio, contact the U.S. Immigration and Naturalization Service, 8940 Four Winds Drive. You must visit in person.

DOING BUSINESS IN MEXICO

To satisfy Mexican authorities or business entities as to the legitimacy of corporate documents establishing your business, it is necessary to obtain an "Apostille." The Apostille certifies the authenticity of signatures, capacity of the person signing the corporate document and identifies the seal/stamp that the document bears. Request for corporate documents requiring an Apostille should be directed to the corporate Section of the Secretary of State of Texas. There is a \$10.00 fee for the Apostille.

Getting Assistance

There are several types of assistance available depending on what knowledge and experience level you are and what stage you are in (how far along) with your business. There is pre-business counseling, technical assistance, training assistance and financial assistance.

Types of Business Assistance

PRE-BUSINESS COUNSELING

Experts from the Service Corps of Retired Executives (SCORE), and UTSA's Small Business Development Center conduct pre-business workshops and counseling. Information on these two organizations is also included as part of this section.

TECHNICAL ASSISTANCE AND TRAINING

Procurement Technical Assistance Center (PTAC) assists area businesses in selling their goods and services to local, state, and federal government agencies, and offers Hubzone certification. The PTAC provides market research and analysis for firms wanting to enter those markets and for firms wanting to diversify and take advantage of markets out of state, country or with Federal Prime Contractors. A technical library and automated bid matching system are available. The PTAC services the City of San Antonio, and Bexar, Atascosa, Bandera, Comal, Frio, Guadalupe, Gillespie, Karnes, Kendall, Medina, Kerr and Wilson Counties. Nominal fees may apply. For more information, call (210) 207-3915.

Small Business Economic Development Advocacy Office promotes the involvement and utilization of Small, Minority and Woman-owned Business Enterprises (S/M/WBEs) in all areas of City contracting. The SBEDA office publishes a quarterly newsletter, maintains a plans room with bidding information, and conducts monthly government contracting orientations. For more information call (210) 207-3915.

The Small Business Learning Center exposes you to computers and software packages. For more information call (210) 458-2460.

FINANCIAL ASSISTANCE

The San Antonio Local Development Company works with the Small Business Administration (SBA) and other federal agencies to provide financing for small and medium-sized businesses. The SBA 504 and EDA Revolving Loan Fund loan programs are second mortgage financing for 40% and 33% of the project cost, respectively. A financial institution usually provides a 50% to 57% first mortgage, with the business providing 10% cash investment. Start-up businesses may be considered with a minimum of 20% or more investment and market study business plan. All loan programs are priced at below market interest rates. For more information on these and other loan programs, call (210) 207-3932 or 1-800-55-SALDC. The following are loan programs currently available:

Small Business Administration 504 Second Mortgage provides twenty year financing for fixed assets and heavy machinery and equipment. The business must be located in the

Alamo Service Delivery Area that consists of Bexar and the surrounding eleven counties. The maximum 504-second mortgage loan is \$1,000,000 with the minimum being \$50,000.

Small Business Administration 504 DELTA Loan Program is designed to provide financial assistance to help defense-dependent firms and contractors diversify into commercial markets. The program provides fixed rate and financing for the purchase or construction of a new facility, renovation, machinery and equipment and restructure overhead. The maximum Delta second mortgage loan is \$1,000,000 with the minimum being \$50,000.

Economic Development Administration Revolving Loan Fund provides short-term loans of one to five years for equipment and working capital. Real estate loans are amortized over a longer period with a balloon payment within three to ten years. Businesses must be located in the San Antonio city limits. The maximum loan is \$200,000 with the minimum being \$15,000.

Small Business Administration Microloan Program provides short-term loans of one to six years for equipment and working capital. Businesses must be located in Bexar or the surrounding eleven counties. The maximum loan is \$15,000 with the minimum being \$3,000.

Housing and Urban Development Enterprise Communities Loan Program provides low interest and short-term loans targeted for the inner-city areas, which includes the downtown business district and the inner Westside, Eastside, and Northside areas. The loans are for commercial revitalization, façade, leasehold improvements and microloans for businesses.

Sources of Assistance

SAN ANTONIO BUSINESS ASSISTANCE FOCUS CENTER

The following *City Business Assistance Programs* offices are located at the San Antonio Business Assistance Focus Center, 215 South San Saba at Dolorosa.

First Point Business Information Office provides new or expanding businesses a guide containing information that will facilitate the opening of a business in the City of San Antonio. There is no “General Business License” requirement in San Antonio. The type of permit or license needed is based on the specific type of business. If your business is located in incorporated town, please check with their City Hall for their licensing or zoning requirements.

This office also: 1) assists new or existing businesses through the Site Development (construction) process; 2) helps businesses obtain answers to questions related to any city activity or regulation; and, 3) maintains a library of Startup Guides on various types of businesses. For more information, call (210) 207-3900.

Small Business Administration is located at the Federal Building, 727 E. Durango, 5th floor, Rm. A-527 (210) 472-5900. One-hour business loan briefings in room A-517 from 11:00 a.m. to 12:00 noon, free – no reservations required. Call (210) 472-5928 for briefing dates.

Service Corps of Retired Executives (SCORE) Expert volunteers will help prospective small business owners get started on the right path to success by presenting an affordable Pre-Startup Workshop covering a wide range of sound business management practices.

SCORE volunteers will also make confidential visits to your place of business to help you identify problem areas, determine causes and recommend solutions. To make a reservation to meet with a business counselor, call (210) 207-3900.

THE UNIVERSITY OF TEXAS AT SAN ANTONIO (UTSA) DOWNTOWN

The UTSA Downtown campus also has programs to assist potential and existing business owners. Located at the Cypress Tower, 1222 North Main, San Antonio, TX 78212. Please call the appropriate number below for an appointment or for information on each program.

Small Business Development Center provides confidential business counseling at no charge, presents a variety of monthly business workshops as well as other training programs to assist existing and potential small business owners develop their management skills for a better chance at success. (210) 458-2476

Center for Economic Development provides private consulting services through business development specialists and consultants.

UTSA International Trade Center was specifically created to assist small to medium-sized companies explore and develop potential business opportunities in global markets. (210) 458-2470

Technology Center supports local manufacturing firms, technology-based companies, and product/technology development companies. The purpose is to enable small and medium-sized businesses to access and utilize technology to increase efficiency and enhance their competitive advantage. (210) 458-2464

Minority Business Development Center offers consulting services such as business plan development, loan packaging, and marketing and feasibility studies, SBA. 8(a) package preparation, construction bond package preparation, contract negotiations, match procurement opportunities, DODGE and Commerce Business Daily opportunities. Services provided on a cost share basis. Business must be in Bexar, Comal, Guadalupe or Wilson counties and must be 51% ethnic minority ownership to be eligible for services. (210) 458-2480

Obtain Business Permits

HOME OCCUPATIONS

A Home Occupation is defined by the Unified Development Code (UDC), Section 35-38, as follows: Any activity carried out for gain by a resident conducted as an accessory use in the resident's dwelling unit. If your home is located within the city limits of San Antonio, home occupations must meet certain requirements. Call the Zoning Section City of San Antonio Development Services Department at (210) 207-7900 to confirm if your business may be operated from your home.

COMMERCIAL LOCATION

Certificate of Occupancy – This is a city requirement applicable ONLY if your business is located within the city limits of San Antonio in a commercially zoned land. You must apply in person at the Development Services Department for a Certificate of Occupancy if the use of the building will change from its previous use, i.e., retail store to restaurant; warehouse to manufacturing; or if there is a change of occupant. This is the initial step for a team of City inspectors to inspect the space to be occupied to determine if the premises meet all building, plumbing, heating and air, electrical, fire, health and environmental requirements. Upon approval of all the inspections, the Development Services Department issues the Certificate of Occupancy. Time frame for processing the application is within five working days unless there are corrections to be made. To apply for a certificate of occupancy, please contact the One Stop, located at 114 W. Commerce, 9th Floor, and (210) 207-5500.

Sales Tax Permit – Every Sole Proprietorship, Partnership, Corporation or other organization going into business should call the office of the State comptroller to determine if a SALES TAX PERMIT is required for the product you sell, rent, lease, or for the service you render. There is no fee for the SALES TAX PERMIT; however, you may be required to furnish a bond or security. The State Comptroller's Office also has TAX EXEMPT information. Under Texas law, the purchaser of a business is responsible for any sales tax owed by the previous owner. Additionally, the law requires a purchaser to withhold from the purchase price any amount needed to cover a sales tax debt.

You should have the following information prior to going to the State Comptroller: a) Your SSN and address if you own the business, or b) Each partner's SSN if it is a partnership; or c) SSN and address of the president, VP, and secretary treasurer if it is a corporation. You should also have: a) the Federal Employer Identification Number assigned by the Internal Revenue Service if you hire employees or pay federal excise tax; and b) the corporate Charter or Certificate of Authority Number assigned to your corporation by the Texas Secretary of State and the effective date of permission to do business in Texas if it is a corporation.

PENALTY FOR OPERATING WITHOUT A SALES TAX PERMIT: Anyone who operates a retail business in Texas without a Sales Tax Permit or after a permit has been suspended, and each officer of any Corporation who operates a business without a sales tax permit or with a suspended permit, is guilty of a misdemeanor. The fine is up to \$500 a day for each day the business operates without a permit.

Contact your local offices of the Texas State Comptroller at the following locations: 123 SW Military Drive, Southwest Junction Plaza at (210) 924-6434; 9514 Console Dr., Suite 102 at (210) 616-0067; or 14145 Nacogdoches Rd. at (210) 646-0399 or visit their website at www.window.state.tx.us

